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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,578	05/31/2001	Jason Wang	06975-138001 / AOLT V-13	6557
26171	7590	10/05/2005	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			SRIVASTAVA, VIVEK	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/867,578

Applicant(s)

WANG ET AL.

Examiner

Vivek Srivastava

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 8 – 22** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 8 – 22 recite functional descriptive limitations i.e. a computer program per se which is deemed non-statutory.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 4 – 15 and 23 – 25** are rejected under 35 U.S.C. 102(b) as being anticipated by Lett et al (US 5,592,551).

**Regarding claims 1, 8 and 23** Lett discloses a method and a computer program capable of generating digital data representing information communicated in a vertical interval of a video signal comprising receiving EPG data communicated within a VBI or a video signal (see col 5 lines 22 – 33). Lett further discloses the VBI data decoder

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extracts and filters the data (see col 8 lines 45 – 50, details of decoder provided in application 08/229,805 which is incorporated by reference). It is noted that data extracted from the VBI decoder is generated by filtering and processing before it is stored in DRAM 137 (see col 8 lines 45 – 50). It is noted that since and EPG is displayed to a user, necessarily an EPG is generated i.e. indexed from parsed data (see fig 4A, 4B).

**Regarding claim 2**, Lett discloses EPG data is accessible to a user via television interface 20 (see fig 2).

**Regarding claims 4 and 10**, Lett discloses broadcasting coded data in the VBI (as discussed above) and further discloses a cable headend 12 (fig 1) which transmits over transmission lines or co-axial cables (see col 4 lines 22 – 26).

**As to claims 5 and 12**, it is noted that Lett discloses broadcasting coded data in the VBI (as discussed above) wherein the signal is a terrestrial broadcast signal (see fig. 1 and col 4 lines 22 – 26).

**As to claims 6 and 11**, it is noted that Lett discloses broadcasting coded data in the VBI (as discussed above) wherein the signal is a satellite broadcast signal (see fig. 1 and col 4 lines 22 – 26).

**Claim 7** is met by the above.

**Regarding claim 9**, Lett discloses receiving EPG data broadcasting the non-video VBI (as discussed above) and thus discloses the claimed limitation.

**Claim 13** is met by the above.

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**Regarding claim 14**, Lett discloses the computer program is an embedded software application as necessary controlling and reproducing the EPG (see 104 – fig. 3).

**Regarding claim 15**, Lett discloses decoding the data and thus discloses converting the data from coded data to non-coded data and thus discloses the claimed limitation.

**Regarding claim 24**, Lett discloses an EPG with a channel identifier (See 'HBO' or 'ESPN' in fig 4B).

**Regarding claim 25**, Lett discloses an EPG comprising generating an EPG that is inherently driven by a data management code segment having at least one application program interface capable of supporting a user interface, data loading and manipulation and data mapping. It is noted that a user can interface and select to tune (see fig 5), EPG data is loaded and manipulated to form the EPG (see fig 5) and EPG data is mapped to form and display an EPG.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 3 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lett et al (US 5,592,551).**

**Regarding claim 3**, Lett fails to disclose the claimed disk drive. Official Notice is taken a disk drive is well-established, reliable and cost effective memory for storing data. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lett to include the claimed limitation for the benefit of utilizing a well-established, reliable and cost effective memory.

**Regarding claim 16**, Lett discloses a decoder for filtering the digitally encoded data but fails to disclose converting the decoded data into a binary data string. Official Notice is taken it is well known to convert data into digital data (binary data string) for storage to reduce latency associated with storing and retrieving analog data. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lett to include the claimed limitation for the benefit of reducing latency associated with storing analog data.

#### ***Allowable Subject Matter***

**Claims 17 – 22** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Florin et al (US 5,583,560) – Selective display of listing information

Yuen (US 5,621,579) – Selective playing back of programs

Hendricks et al (US 5,990,927) – Advanced set top terminal

Klosterman et al (US 6,078,348) – TV schedule system

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (571) 272-7304. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272 – 7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Vs

9/30/05

A handwritten signature in black ink, appearing to read 'Vivek Srivastava', with a long horizontal flourish extending to the right.

**VIVEK SRIVASTAVA**  
**PRIMARY EXAMINER**